

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Bruce G. Klein,

Plaintiff,

vs.

Civil No.: 1:23-cv-00223

Gregory D. Klein et al.,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING MOTION TO DISMISS FOR LACK OF JURISDICTION,
FINDING AS MOOT MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM,
MOTION FOR HEARING, AND
MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY**

[¶ 1] THIS MATTER comes before this Court on a Motion to Dismiss for Lack of Jurisdiction, Motion to Dismiss for Failure to State a Claim, and Motion for Hearing filed by Defendants Gregory D. Klein and Wesley J. Klein on August 26, 2024. Doc. No. 32. Defendant Jelena M. Bouret/Barfield joined Motions on September 16, 2024. Doc. No. 34. The Plaintiff filed a Response on September 16, 2024. Doc. No. 35. Defendants Gregory D. Klein and Wesley J. Klein filed a Reply on October 1, 2024.

[¶ 2] Also before the Court is a Motion for Extension of Time to Complete Discovery filed by the Plaintiff on September 23, 2024. Doc. No. 37. Defendants Gregory D. Klein and Wesley J. Klein filed a Response on October 7, 2024. Doc. No. 41. Plaintiff filed a Reply on October 18, 2024.

[¶ 3] On November 20, 2024, United States Magistrate Judge Clare R. Hochhalter filed a Report and Recommendation on the pending motions. Doc. No. 44. In in, Magistrate Judge Hochhalter recommends the Court grant the Motion to Dismiss for Lack of Jurisdiction, dismiss the case in its

entirety, and deem the motion for extension of time to complete discovery as moot. December 6, 2024, was set as the deadline to file objections. Plaintiff filed an objection on December 6, 2024. Doc. No. 46.

[¶ 4] The Court has reviewed the Report and Recommendation (Doc. No. 44) and the entire record in this case, including the Plaintiff's Objection (Doc. No. 46). The Court finds the Report and Recommendation persuasive and the Plaintiff's Objection to be without merit. Accordingly, the Court **ADOPTS** the Report and Recommendation in its entirety and **ORDERS**:

1. The Motion to Dismiss for Lack of Jurisdiction (Doc. No. 32) is **GRANTED**.¹
2. The above-captioned action is **DISMISSED** in its entirety for lack of subject matter jurisdiction.²
3. The Plaintiff's Motion for an Extension of Time to Complete Discovery is **MOOT**.

[¶ 5] **IT IS SO ORDERED.**

Dated December 11, 2024.



Daniel M. Traynor, Judge
United States District Court

¹ Although Magistrate Judge Hochhalter discussed the Defendants' inability to bring a motion under Fed. R. Civ. P. 12(b)(6) for having already filed their Answer, like the Report and Recommendation, this Court does not need to evaluate the substance of the claims because there is clearly no subject matter jurisdiction over this action. The Court has also reviewed the entire record and is fully apprised of the facts and law of this case and concludes a hearing is unnecessary. For these reasons, the Motions to Dismiss for Failure to State a Claim and Motion for Hearing are deemed **MOOT**.

² Defendant Jeffrey G. Klein has not made an appearance and so did not file any Motion to Dismiss. Because the record is plain this Court lacks subject matter jurisdiction over any claim in the Complaint, the Court dismisses this action as to all claims against all defendants.